

Coleman, Duane L.

From: Coleman, Duane L.
Sent: Monday, May 30, 2016 10:22 PM
To: 'Ross Hutchison'; Greg Cashion
Cc: Goerisch, C. David; jbradshaw@wyattfirm.com
Subject: RE: Johnson Marcraft, Inc. v. Western Surety Company

Ross:

Congratulations on the new arrival. I hope everything went well.

I am surprised and disappointed by your trailing e-mail, which reflects a serious lack of honesty. When we spoke on May 11 about the deficiencies with Western's discovery responses, you told me your wife was expecting Memorial Day weekend. You also stated that you would call me the following week (the week beginning May 16) to advise if Western would revise its responses based on our discussion, including the case citations I provided to you. Thus, the statement in your e-mail that I "went so far as saying that [I] would give [you] a phone call before taking any additional action" is false. In fact, it doesn't even make sense – I had nothing more to say after our telephone conference on May 11 and was waiting to hear back from you. After waiting a week longer than the time you promised to get back to me, I moved forward with the preparation of the Joint Statement. Western cannot unilaterally prevent us from filing a motion to compel by choosing not to "be a part" of the Joint Statement, which is accurate based on our May 11 discussion and Western's failure thereafter to contact us as you said you would do.

Going forward, please communicate with us in writing only. Thank you.

LEWISRICE **Duane L. Coleman**
 dcoleman@lewisrice.com
 600 Washington Avenue
 Suite 2500
 St. Louis, Missouri 63101-1311
 314.444.7632 (direct)
 314.612.7632 (fax)
 www.lewisrice.com

From: Ross Hutchison [mailto:RHutchison@smithcashion.com]
Sent: Monday, May 30, 2016 9:49 AM
To: Coleman, Duane L. <dcoleman@lewisrice.com>; Greg Cashion <GCashion@smithcashion.com>
Cc: Goerisch, C. David <dgoerisch@lewisrice.com>; jbradshaw@wyattfirm.com
Subject: RE: Johnson Marcraft, Inc. v. Western Surety Company

Exhibit
7

Mr. Coleman:

Thank you for sending over the Joint Statement per the local rules. However, we believe that the purpose of the Joint Statement is to lay out the disputes, not argue them. After reviewing your Joint Statement, it appears to be very adversarial and we do not wish to be a part of it. I do not dispute that the matters outlined in the Joint Statement were discussed on May 11, but the purpose of the Joint Statement is not for you to solely give your position regarding the disputed discovery. Moreover, it was my understanding from our May 11 conversation that you wanted to attempt in good faith to resolve this dispute without a Motion and after I communicated to you that I was having my first child (who was born on May 22) you seemed to be more than understanding. You went so far as saying that you would give

me a phone call before taking any additional action. Although you chose not to give me a courtesy call, I understand that you want to push this discovery dispute along and we will attempt to provide any additional information that we believe to be required per the interrogatories posed and applicable law. Tomorrow Greg and I are in a mediation all day but I will be in contact with you on Wednesday.

J. Ross Hutchison



231 Third Avenue North
Nashville, TN 37201
Direct (615) 742-8577
Facsimile (615) 742-8556
rhutchison@smithcashion.com

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From: Coleman, Duane L. [<mailto:dcoleman@lewisrice.com>]
Sent: Friday, May 27, 2016 12:04 PM
To: Greg Cashion; Ross Hutchison
Cc: Goerisch, C. David; jbradshaw@wyattfirm.com
Subject: Johnson Marcraft, Inc. v. Western Surety Company

Greg and Ross:

After the Memorial Day weekend, we will filing a Motion to Compel against Western Surety Company. Toward that end, attached is the Joint Statement required by Local Rule 37.01(a) that recounts the matters in dispute that I discussed with Ross back on May 11, 2016.

Please contact me should you have any questions. Thank you.

 **Duane L. Coleman**
dcoleman@lewisrice.com
600 Washington Avenue
Suite 2500
St. Louis, Missouri 63101-1311
314.444.7632 (direct)
314.612.7632 (fax)
www.lewisrice.com